Office-Supreme Court, U.S.
FILED
JAN 26 1981
ALEXANDER L. STEVAS,
CLERK

No. 80-5950

In the
Supreme Court of the United States
OCTOBER TERM, 1980

LAVERNE L. LOGAN, *Appellant,*

vs.

ZIMMERMAN BRUSH COMPANY, *Appellee.*

ON APPEAL FROM THE SUPREME COURT OF ILLINOIS

MOTION TO DISMISS

JAY A. CANEL
Counsel for Appellee

RUDNICK & WOLFE
70 North LaSalle Street
Suite 2800
Chicago, Illinois 60602
(312) 368-4095

The Scheffer Press, Inc.—(312) 263-6850

TABLE OF CONTENTS

PAGE

Table of Contents i

Table of Authorities i

Motion to Dismiss 1

TABLE OF AUTHORITIES

CASES

City of Mobile v. *Bolden*, ... U.S. ..... 100 S.Ct. 1490 (1980) 2

Lindsay v. *Normet*, 405 U.S. 56 (1972) 2

Martinez v. *California*, 444 U.S. 277 (1980) 3

San Antonio Ind. School District v. *Rodriguez*, 411 U.S. 1 (1973) 2

STATUTES

Illinois Fair Employment Practices Act, Ill. Rev. Stat. Ch. 48, § 851 *et seq.* (1979) 1, 2

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

No. 80-5950

LAVERNE L. LOGAN, *Appellant,*

vs.

ZIMMERMAN BRUSH COMPANY, *Appellee.*

ON APPEAL FROM THE SUPREME COURT OF ILLINOIS

MOTION TO DISMISS

Section 8(b) of Illinois' Fair Employment Practices Act (FEPA) provides: "Within 120 days of the proper filing of a charge, the Commission shall convene a fact finding conference . . . ." Ill.Rev.Stat. ch. 48 §858(b) (1979). In this case, through no fault of Laverne L. Logan or Zimmerman Brush Company, the Commission did not convene a hearing until the 125th day. Relying on its prior decision that section 8(c) of the same Act required the Commission to decide whether or not to issue a complaint against an employer within 180 days, the Illinois Supreme Court held that a conference within 120 days was a mandatory prerequisite to any FEPA claim. It said:

> "The public interest in an expeditious resolution of disputes which is made possible though section 8(b) is not less important than the financial considerations discussed in *Springfield-Sangamon*. Avoiding unnecessary expenditures of time and money by all parties serves to further the stated policy of the Act, which is not only to protect employees from unfair employment practices but also to protect 'employers, labor organizations and employment agencies from unfounded charges of discrimination.' Ill.Rev.Stat. 1979, ch. 48, par. 851."[1]

Laverne L. Logan made due process and equal protection arguments in the Illinois Supreme Court. Rejecting those arguments, the Court held:

> "We also are not persuaded by the employee's protests that his rights to due process and equal protection were violated. The statutory scheme here was to provide, through administrative and judicial channels, a means of relief from discriminatory employment practices. The legislature could establish reasonable procedures to be followed upon a charge, and the observance of them here did not violate his constitutional rights."[2]

This Court has recently reaffirmed that "where a state law does not impair a right or liberty protected by the Constitution, there is no occasion to depart from 'the settled mode of constitutional analysis of legislat[ion] . . . involving questions of economic and social policy.' " *City of Mobile* v. *Bolden*, —— U.S. ——, ——, 100 S.Ct. 1490, 1505 (1980), *citing San Antonio Ind. School District* v. *Rodriguez*, 411 U.S. 1, 33 (1973); *see also Lindsey* v. *Normet*, 405 U.S. 56 (1972). The Illinois FEPA as con-

---

[1] Appellant's Appendix A at 5a-6a.

[2] Appellant's Appendix A at 7a.

strued by the Illinois Supreme Court protects the rights of employers as well as employees[3] and in so doing constitutes a reasonable exercise of the Illinois Legislature's power. Here, as in *Martinez* v. *California*, 444 U.S. 277, 282 (1980), "the State's interest in fashioning its own rules of . . . law is paramount to any discernible federal interest, except perhaps an interest in protecting the individual citizen from state action that is wholly arbitrary or irrational." Illinois' FEPA 120-day conference requirement applies equally to all claimants, is rationally related to the State's purposes, and deprives Laverne L. Logan of no federal constitutional right.

Zimmerman Brush Company therefore prays that Laverne L. Logan's appeal be dismissed on the ground that it presents no substantial federal question and because the judgment of the Illinois Supreme Court rests on an adequate non-federal basis.

Respectfully submitted,

JAY A. CANEL
Counsel for Appellee

JAY A. CANEL
RUDNICK & WOLFE
30 North LaSalle Street
Suite 2800
Chicago,Illinois 60602
(312) 368-4095

---

[3] In its earlier decision relating to the 180-day period, the Illinois Supreme Court expressed concern over the ". . . financial impact upon the employer who might be confronted by a complaint long after the alleged unfair employment practice." Appellant's Appendix A at 4a.